

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

NATIONAL STEEL CAR LIMITED,

Plaintiff,

v.

THE GREEBRIER COMPANIES, INC.,

Defendant.

Case No. 3:20-cv-01275-YY

ORDER

YOU, Magistrate Judge.

Defendant The Greenbrier Companies, Inc. (“Greenbrier”) has filed a Motion to Amend the Scheduling Order (ECF 152). Greenbrier seeks an extension to serve its final invalidity contentions, which are currently due December 10, 2021, until January 14, 2022, along with extensions of other deadlines. All told, Greenbrier’s extensions will delay this case for approximately one month.

Greenbrier has shown good cause to modify the schedule. *See* FED.R.CIV.P. 16(b)(4) (“A schedule may be modified only for good cause and with the judge’s consent.”). While the parties were waiting for the court’s order regarding “floor panel,” they repeatedly agreed to extend the deadline to serve final invalidity contentions for one month after the court issued its order. Greenbrier now seeks an extension of eight weeks because the court’s ruling “greatly affects” its final invalidity and infringement contentions. Greenbrier also explains that Thanksgiving “shortened the time it has to prepare this key document” and its final invalidity contentions are

voluminous, i.e., anticipated to be 1,000 pages, including tables and charts. Mot. 5. These reasons constitute good cause. Therefore, Greenbrier’s motion is granted and the schedule is modified as Greenbrier has requested:

Event	Current Deadline	New Deadline
Deadline to serve Final Infringement and Invalidity Contentions	December 10, 2021	January 14, 2022
Fact Discovery Closes	March 18, 2022	April 22, 2022
Opening Expert Reports	April 22, 2022	May 27, 2022
Rebuttal Expert Reports	May 27, 2022	June 24, 2022
Expert Discovery	June 24, 2022	July 29, 2022
Meet and Confer to Narrow Claims and Prior Art	July 1, 2022	August 5, 2022
File Report Regarding Results of Meet and Confer	July 8, 2022	August 12, 2022
Dispositive Motions and Daubert	July 22, 2022	August 26, 2022

NSC requests that if the court grants Greenbrier’s requested extension, it should “also limit Greenbrier’s invalidity contentions to no more than 15 prior art references.” Resp. 3. As Greenbrier observes, however, such a request is “premature” where depositions and expert discovery have not yet been conducted. Reply 2. Also, the case schedule otherwise contemplates that the parties will “meet and confer to discuss narrowing the number of claims asserted and prior art references” one week after expert discovery closes. *Id.* Accordingly, this request is denied.

Finally, NSC asks the court to “maintain the January 7, 2022, deadline for NSC to respond to Greenbrier’s interrogatory numbers 3 & 4 and for Greenbrier to respond to NSC interrogatory numbers 4, 7, 8 & 9.” Resp. 3. NSC also requests that, “[i]n the event the Court grants Greenbrier’s motion to amend the scheduling order, NSC requests to extend the deadline from December 20, 2021, to January 26, 2022, to serve supplemental responses to Greenbrier’s Interrogatory No. 20 with updated claim charts relating to NSC’s commercial embodiments (in

similar detail as NSC's infringement contentions), which will be over a week from serving contentions under Greenbrier's proposed schedule." *Id.* In its reply, Greenbrier seems to take no position on these requests. Therefore, these requests are granted.

IT IS SO ORDERED.

DATED December 8, 2021.

/s/ Youlee Yim You  
Youlee Yim You  
United States Magistrate Judge